

COUNTY COUNCIL OF WICOMICO COUNTY, MARYLAND
LEGISLATIVE SESSION, 2010
BILL NO. 2010-03

Introduced: March 2, 2010

BY: Mrs. Bartkovich, Mrs. Sample-Hughes, Mr. Cannon, Mrs. Prettyman, Mr. McCain,
Mr. MacLeod and Mr. Holloway.

AN ACT to amend Chapter 225 titled "Zoning", Article XX titled "Uses And Standards Enumerated" section §225-115.1 titled "Small Wind Energy Systems" to add provisions to the Wicomico County Code regulating small wind energy systems and to preserve and protect the public's health and safety.

PREAMBLE

WHEREAS, The Wicomico County Code, Chapter 225, titled "Zoning," established the zoning regulations throughout the County to promote the public health, safety and general welfare and prescribing the most desirable use for which land in each zoning district may be adapted and those uses to be subjected to special regulations, while conserving the value of land throughout the County; and

WHEREAS, The Wicomico County Code, Chapter 225 titled "Zoning", has no provisions regulating small wind energy systems; and

WHEREAS, it appears advisable upon the recommendation of the Executive, that the County Code be amended to add provisions to the County Code to regulate the installation and construction of small wind energy systems in Wicomico County for private landowners, subject to restrictions, which will promote and preserve the public health and safety.

SECTION I. BE IT ENACTED AND ORDAINED BY THE COUNTY COUNCIL OF WICOMICO COUNTY, MARYLAND, IN LEGISLATIVE SESSION, that Chapter 225, titled "Zoning", Article XX titled "Uses And Standards Enumerated", section §225-115.1 titled "Small Wind Energy Systems" be and the same is hereby amended and enacted to read as follows:

Chapter 225 Zoning
Part 8 Special Standards For Particular Uses
Article XX Uses And Standards Enumerated

§225- 115.1 Small Wind Energy Systems

A. PURPOSE. THE PURPOSE OF THESE PROVISIONS IS TO FACILITATE THE INSTALLATION AND CONSTRUCTION OF SMALL WIND ENERGY SYSTEMS IN WICOMICO COUNTY FOR PRIVATE LANDOWNERS, SUBJECT TO REASONABLE RESTRICTIONS, WHICH WILL PRESERVE AND PROTECT THE PUBLIC'S HEALTH AND SAFETY. SMALL WIND ENERGY SYSTEMS SHALL BE USED FOR THE PRIMARY PURPOSE OF GENERATING POWER FOR THE PROPERTY ON WHICH THE SYSTEM IS LOCATED.

B. APPLICABILITY. THE REQUIREMENTS OF THIS SECTION SHALL APPLY TO ALL SMALL WIND ENERGY SYSTEMS PROPOSED AFTER THE EFFECTIVE DATE OF THIS BILL. SMALL WIND ENERGY SYSTEMS FOR WHICH A REQUIRED PERMIT HAS BEEN PROPERLY ISSUED PRIOR TO THE EFFECTIVE DATE OF THIS BILL SHALL NOT BE REQUIRED TO MEET THE REQUIREMENTS OF THIS SECTION; PROVIDED, HOWEVER, THAT ANY SUCH PRE-EXISTING SMALL WIND ENERGY SYSTEM THAT IS NOT PRODUCING ENERGY FOR A CONTINUOUS PERIOD OF TWELVE (12) MONTHS SHALL MEET THE REQUIREMENTS OF SECTION §225-115.1 PRIOR TO RECOMMENCING PRODUCTION OF ENERGY. NO MODIFICATION THAT INCREASES THE HEIGHT OF THE SYSTEM OR SIGNIFICANTLY INCREASES ITS OUTPUT SHALL BE ALLOWED WITHOUT FULL COMPLIANCE WITH SECTION §225-115.1.

C. DEFINITIONS.

MET TOWER. A "METEOROLOGICAL TOWER" OR "MET TOWER" IS A STRUCTURE DESIGNED TO SUPPORT THE GATHERING OF WIND ENERGY RESOURCE DATA, AND INCLUDES THE TOWER, BASE PLATE, ANCHORS, GUY CABLES, HARDWARE, ANEMOMETERS (WIND SPEED INDICATORS), WIND DIRECTION VANES, BOOMS TO HOLD EQUIPMENT, DATA LOGGER, INSTRUMENT WIRING, AND ANY TELEMETRY DEVICES THAT ARE USED TO MONITOR OR TRANSMIT WIND SPEED AND WIND FLOW CHARACTERISTICS OVER A PERIOD OF TIME FOR EITHER INSTANTANEOUS WIND INFORMATION OR TO CHARACTERIZE THE WIND RESOURCE AT A GIVEN LOCATION.

ROOFTOP WIND ENERGY SYSTEMS- SHALL CONSIST OF A WIND TURBINE(S) AND ASSOCIATED EQUIPMENT FOR CONVERTING WIND ENERGY TO POWER AND ATTACHMENT TO THE ROOFTOP.

SMALL WIND ENERGY SYSTEM. A SINGLE TOWERED WIND ENERGY SYSTEM CONSISTING OF A WIND TURBINE, BASE, TOWER AND ASSOCIATED CONTROL OR CONVERSION ELECTRONICS THAT:

A. ARE USED TO GENERATE ELECTRICITY; AND

~~B. HAS A RATED NAMEPLATE CAPACITY OF 100 KILOWATTS OR LESS;
AND~~

BC. HAS A TOTAL HEIGHT OF 150 FEET OR LESS.

TOTAL HEIGHT. THIS IS THE DISTANCE MEASURED FROM THE GROUND LEVEL TO THE BLADE EXTENDED AT ITS HIGHEST POINT.

WIND GENERATOR. BLADES AND ASSOCIATED MECHANICAL AND ELECTRICAL CONVERSION COMPONENTS MOUNTED ON TOP OF THE WIND TOWER.

WIND TOWER. THE MONOPOLE, FREESTANDING, OR GUYED STRUCTURE THAT SUPPORTS THE SMALL WIND ENERGY SYSTEM.

D. STANDARDS. A SMALL WIND ENERGY SYSTEM SHALL BE AN ACCESSORY USE IN ALL ZONING DISTRICTS SUBJECT TO THE FOLLOWING REQUIREMENTS:

(1) SETBACKS. A WIND TOWER FOR A SMALL WIND ENERGY SYSTEM SHALL BE SET BACK A DISTANCE EQUAL TO ITS TOTAL HEIGHT PLUS TWENTY (20) FEET FROM:

(a) ANY STATE OR COUNTY RIGHT OF WAY OR THE NEAREST EDGE OF A STATE OR COUNTY ROADWAY, WHICHEVER IS CLOSER;

(b) ANY RIGHT OF INGRESS OR EGRESS ON THE OWNER'S PROPERTY;

(c) ANY OVERHEAD UTILITY LINES. SERVICE LINES OWNED BY A PRIVATE PROPERTY OWNER OF THE LAND ON WHICH THE SERVICE LINES SIT ARE EXEMPT FROM THE SETBACK.;

(d) ALL PROPERTY LINES. THIS SETBACK IS NOT APPLICABLE TO ADJACENT PARCELS THAT HAVE COMMON OWNERSHIP.; AND

(e) ANY EXISTING GUY WIRE, ANCHOR OR SMALL WIND ENERGY SYSTEM ON THE PROPERTY.

(2) ACCESS.

(a) ALL GROUND MOUNTED ELECTRICAL AND CONTROL EQUIPMENT SHALL BE LABELED AND SECURED TO PREVENT UNAUTHORIZED ACCESS.

(b) THE WIND TOWER SHALL NOT BE CLIMBABLE UP TO TWELVE (12) FEET ABOVE THE GROUND.

~~(3) ELECTRICAL WIRES. ALL ELECTRICAL WIRES ASSOCIATED WITH A SMALL WIND ENERGY SYSTEM, OTHER THAN WIRES NECESSARY TO CONNECT THE WIND GENERATOR TO THE WIND TOWER WIRING, THE WIND TOWER WIRING TO THE DISCONNECT JUNCTION BOX, AND THE GROUNDING WIRES, SHALL BE LOCATED UNDERGROUND.~~

~~(34) LIGHTING. A WIND TOWER AND WIND GENERATOR SHALL NOT BE ARTIFICIALLY LIGHTED UNLESS SUCH LIGHTING IS REQUIRED BY THE FEDERAL AVIATION ADMINISTRATION (FAA). LIGHTING OF OTHER PARTS OF THE SMALL WIND ENERGY SYSTEM, SUCH AS APPURTENANT STRUCTURES, SHALL BE LIMITED TO THAT REQUIRED FOR SAFETY PURPOSES, AND SHALL BE REASONABLY SHIELDED FROM ABUTTING PROPERTIES.~~

~~(4) APPEARANCE, COLOR, AND FINISH. THE WIND GENERATOR AND WIND TOWER SHALL REMAIN PAINTED OR FINISHED THE COLOR OR FINISH THAT WAS ORIGINALLY APPLIED BY THE MANUFACTURER, SUBJECT TO THE APPROVAL OF THE ZONING ADMINISTRATOR.~~

~~(46) SIGNS. SMALL WIND ENERGY SYSTEMS SHALL NOT BE USED FOR DISPLAYING ANY ADVERTISING EXCEPT REASONABLE IDENTIFICATION OF THE MANUFACTURER, OPERATOR, OR OWNER OF THE SYSTEM AND WARNING SIGNS OF THE SYSTEM. NO SIGN SHALL BE VISIBLE FROM A PUBLIC ROAD.~~

~~(57) CODE COMPLIANCE. A SMALL WIND ENERGY SYSTEM SHALL COMPLY WITH ALL APPLICABLE CONSTRUCTION AND ELECTRICAL CODES.~~

~~(68) UTILITY NOTIFICATION AND INTERCONNECTION. SMALL WIND ENERGY SYSTEMS THAT CONNECT TO AN ELECTRIC UTILITY SHALL COMPLY WITH THE PUBLIC SERVICE COMMISSION REGULATIONS.~~

~~(79) SMALL WIND ENERGY SYSTEMS, AS DEFINED, SHALL NOT BE ATTACHED TO ANY BUILDING, INCLUDING ATTACHMENT BY GUY~~

WIRES. ROOFTOP WIND ENERGY SYSTEMS ARE ALLOWED TO BE ATTACHED TO BUILDINGS PROVIDED SUCH STRUCTURES:

~~(a) ARE SET BACK AT LEAST 20 FEET FROM THE FRONT PROPERTY LINE, OR IN THE CASE OF A CORNER LOT, AT LEAST 15 FEET FROM THE FRONT AND SIDE PROPERTY LINE.~~

~~(b) ARE LIMITED TO A HEIGHT OF NO MORE THAN 15 FEET ABOVE THE ROOFTOP.~~

~~(c) ARE SAFELY AND SECURELY ATTACHED TO THE ROOFTOP IN COMPLIANCE WITH THE WICOMICO COUNTY BUILDING CODE AND APPROVED BY THE WICOMICO COUNTY DEPARTMENT OF PUBLIC WORKS.~~

~~(840) MET TOWERS SHALL BE PERMITTED UNDER THE SAME STANDARDS, PERMIT REQUIREMENTS, RESTORATION REQUIREMENTS, AND PERMIT PROCEDURES AS A SMALL WIND ENERGY SYSTEM.~~

~~(944) A SMALL WIND ENERGY SYSTEM SHALL COMPLY WITH ALL REQUIREMENTS OF THE FEDERAL AVIATION ADMINISTRATION (FAA) AND THE MARYLAND AVIATION ADMINISTRATION (MAA). THIS INCLUDES WHEN APPLICABLE FILING FEDERAL AVIATION ADMINISTRATION FORM 7460-1, "NOTICE OF PROPOSED CONSTRUCTION OR ALTERATION." A SMALL WIND ENERGY SYSTEM CANNOT BE AN OBSTRUCTION TO NAVIGABLE AIRSPACE.~~

E. NOISE. ALL SMALL WIND ENERGY SYSTEM SHALL COMPLY WITH THE MARYLAND DEPARTMENT OF THE ENVIRONMENT'S NOISE REGULATIONS. (COMAR §26.02.03 CONTROL OF NOISE POLLUTION)

F. GROUND CLEARANCE. THE BLADE TIP OF ANY SMALL WIND ENERGY SYSTEM SHALL, AT ITS LOWEST POINT, HAVE GROUND CLEARANCE OF NO LESS THAN FIFTEEN (15) FEET, AS MEASURED AT THE LOWEST POINT OF THE ARC OF THE BLADES.

G. ABANDONMENT.

(1) ANY SMALL WIND ENERGY SYSTEM FOUND TO BE UNSAFE BY THE BUILDING OFFICIAL SHALL BE REPAIRED BY THE LANDOWNER TO MEET FEDERAL, STATE AND LOCAL SAFETY STANDARDS OR REMOVED WITHIN NINETY (90) DAYS SIX (6) MONTHS.

(2) THE ZONING ADMINISTRATOR MAY ISSUE A NOTICE OF ABANDONMENT TO THE OWNER OF A SMALL WIND ENERGY SYSTEM THAT HAS BEEN OUT OF SERVICE FOR A CONTINUOUS TWELVE (12) MONTH PERIOD. THE COUNTY WILL REQUEST IN WRITING SENT BY REGISTERED MAIL CORRECTIVE ACTION TO BE TAKEN AND PROVIDE THE OWNER THIRTY (30) DAYS TO RESPOND IN WRITING, TO THE NOTICE OF ABANDONMENT. IN THE RESPONSE, THE OWNER SHALL SET FORTH REASONS FOR THE OPERATIONAL DIFFICULTY AND PROVIDE A REASONABLE TIMETABLE FOR CORRECTIVE ACTION.

(a) IF SUFFICIENT REASON IS PROVIDED, THE ZONING ADMINISTRATOR SHALL WITHDRAW THE NOTICE OF ABANDONMENT AND THE OWNER OF THE SMALL WIND ENERGY SYSTEM WILL BE NOTIFIED.

(b) IF THE REASONS PROVIDED ARE UNREASONABLE AND IT IS DETERMINED THAT THE SMALL WIND ENERGY SYSTEM HAS BEEN ABANDONED, THE ZONING ADMINISTRATOR MUST NOTIFY THE OWNER AND SUCH OWNER SHALL REMOVE THE SMALL WIND ENERGY SYSTEM AT THEIR OWN EXPENSE WITHIN ~~A HUNDRED AND TWENTY NINETY (90) DAYS~~ NINETY (90) DAYS OF RECEIPT OF NOTICE FROM THE COUNTY.

(c) IF THE OWNER FAILS TO REMOVE THE SMALL WIND ENERGY SYSTEM, THE ZONING ADMINISTRATOR MAY PURSUE LEGAL ACTION, IF NECESSARY, TO HAVE THE SMALL WIND ENERGY SYSTEM REMOVED AT THE OWNER'S EXPENSE.

H. PUBLIC SERVICE COMMISSION. IN ACCORDANCE WITH THE MARYLAND ANNOTATED CODE, PUBLIC UTILITIES COMPANIES, SECTION §7-207.1, ANY PROPERTY OWNER SEEKING TO CONSTRUCT A SMALL WIND ENERGY SYSTEM AND CONNECT SUCH SYSTEM TO THE MAIN POWER GRID WITH THE CAPABILITY OF TRANSPORTING ENERGY BACK TO THEIR MAIN POWER COMPANY SHALL APPLY TO THE PUBLIC SERVICE COMMISSION (PSC) FOR APPROVAL, IF APPLICABLE, AND PROVIDE DOCUMENTATION OF SUCH APPROVAL TO THE COUNTY PRIOR TO CONSTRUCTION AND BEING ISSUED A PERMIT.

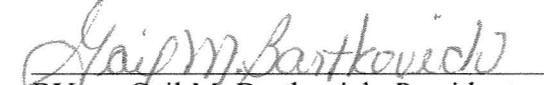
~~I. VARIANCE. VARIANCES TO THE DISTANCES, RESTRICTIONS, AND STANDARDS CONTAINED IN THIS SECTION ARE NOT PERMITTED. SPECIAL EXCEPTION.~~ IN ACCORDANCE WITH WICOMICO COUNTY CODE CHAPTER

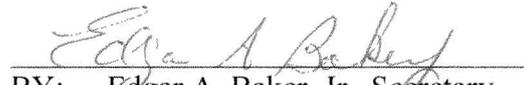
225, THE BOARD OF APPEALS MAY, BY SPECIAL EXCEPTION, ALLOW DEVIATIONS FROM THE STANDARDS SET FORTH IN §225-115.1 D, IF SUCH DEVIATION(S) WOULD NOT BE CONTRARY TO THE PUBLIC HEALTH, SAFETY, OR WELFARE AND THE GRANTING OF THE SPECIAL EXCEPTION WILL NOT BE A DETRIMENT TO ADJACENT AND NEIGHBORING PROPERTIES.

SECTION II. BE IT FURTHER ENACTED THAT this Bill shall be known as Bill No. 2010-03 of Wicomico County, Maryland and shall take effect sixty (60) days after its enactment, unless a proper Petition for Referendum thereof shall be filed prior to said date; in which event, the Bill shall not take effect until the expiration of thirty (30) days following the approval of this Bill by a majority of the qualified voters of the County voting in any such referendum.

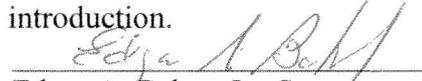
Certified correct as passed and adopted by the County Council of Wicomico County, Maryland this 18th day of May, 2010.

WICOMICO COUNTY, MARYLAND


BY: Gail M. Bartkovich, President


BY: Edgar A. Baker, Jr., Secretary

I HEREBY CERTIFY that twenty-five (25) copies of the above Bill are available for distribution to the public and press at the time of its introduction.


Edgar A. Baker, Jr., Secretary

Explanation:

CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

~~Strike out~~ indicates material deleted from law.

CAPITAL - ~~STRIKE OUT~~ indicates matter stricken from Bill by Amendment.

Underlining indicates Amendments to Bill

COUNTY COUNCIL
OF
WICOMICO COUNTY, MARYLAND

BILL NO. 2010-03
INTRODUCED BY: Council at request of Executive Legislative Day No. 05
Date: March 2, 2010

Introduced, read first time, ordered posted and public hearing scheduled on: April 6, 2010

Time: 6:30 p.m. Location: Council Chambers

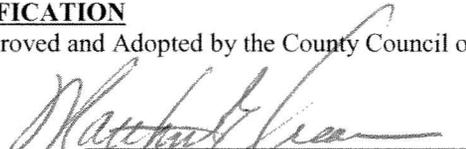
AN ACT to amend Chapter 225 titled "Zoning", Article XX titled "Uses And Standards Enumerated" section §225-115.1 titled "Small Wind Energy Systems" to add provisions to the Wicomico County Code regulating small wind energy systems and to preserve and protect the public's health and safety.

PUBLIC HEARING: Having been posted and notice of time and place of hearing and title of Bill having been published according to the Charter, a public hearing was held on April 6, 2010 and concluded on, April 6, 2010.

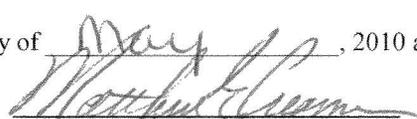

Council Administrator

CERTIFICATION

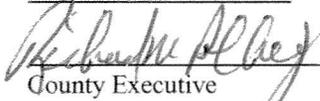
The undersigned hereby certifies that this Bill was Approved and Adopted by the County Council of Wicomico County, Maryland, on the 18th day of May, 2010.


Council Administrator

Presented to the County Executive for approval this 20th day of May, 2010 at
4:30 a.m./p.m.
(5 days §411)


Council Administrator

BY THE EXECUTIVE:


County Executive

APPROVED

Date: May 21, 2010
(21 days §411)

VETOED

Date: _____

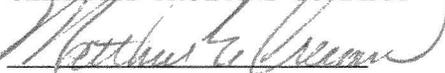
EFFECTIVE DATE:

This Bill having been approved by the County Executive and returned to the Council, becomes law on May 21 and effective on: July 20. (60 days §311)

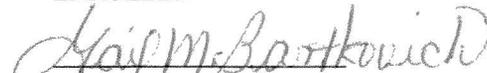
ENROLLMENT:

Legislative Bill No. 2010-03 is herewith submitted to the County Council of Wicomico County for enrollment as being the text as finally passed.

CERTIFIED TRUE AND CORRECT


Council Administrator
Date: May 24, 2010

ENROLLED


Council President
Date: May 24, 2010